

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**November 24, 2004**

**IN RE:**

**PETITION FOR APPROVAL OF  
AMENDMENT TO THE INTERCONNECTION  
AGREEMENT BETWEEN BELL SOUTH  
TELECOMMUNICATIONS, INC. AND  
LIGHTYEAR COMMUNICATIONS, INC.**

**DOCKET NO.  
04-00314**

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**ORDER APPROVING  
FIFTH AMENDMENT TO THE INTERCONNECTION AGREEMENT**

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This matter came before Director Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on November 8, 2004, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Lightyear Communications, Inc.

The original interconnection agreement between these parties was filed on May 23, 2002, and was assigned Docket No. 02-00608. It was approved at a regularly scheduled Authority Conference on July 23, 2002. The first set of amendments was filed on December 20, 2002, under Docket No. 02-01315 and was approved at a regularly scheduled Authority Conference on February 18, 2003. The second amendment was filed on January 29, 2003, under Docket No. 03-00075 and was approved at a regularly scheduled Authority Conference on March 17, 2003. The third amendment was filed on September 30, 2003, under Docket No. 03-

00538 and was approved at a regularly scheduled Authority Conference on November 24, 2003.<sup>1</sup> The fourth amendment was filed on July 14, 2004, under Docket No. 04-00208 and was approved at a regularly scheduled Authority Conference on August 30, 2004. The fifth amendment, which is the subject of this docket, was filed on September 28, 2004.

Based upon a review of the amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104 (2004).
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within BellSouth Telecommunications, Inc.'s service area.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it "discriminates against a telecommunications carrier not a party to the agreement" or if the implementation of the agreement "is not consistent with the public interest, convenience or necessity." Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>2</sup> Thus, although the Authority finds that neither ground for rejection

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<sup>1</sup> The *Order Approving First Amendment to Interconnection Agreement* issued by the Authority on April 4, 2003, in Docket No. 03-00075 incorrectly reflected the procedural history of this docket by stating that the amendment was the first amendment and not the second amendment. Subsequently, the *Order Approving Second Amendment to Interconnection Agreement* issued on December 8, 2003, in Docket No. 03-00538 incorrectly reflected that the amendment was the second amendment and not the third amendment.

<sup>2</sup> See 47 U.S.C. § 252(e)(2)(B)

of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

5) No person or entity has sought to intervene in this docket.

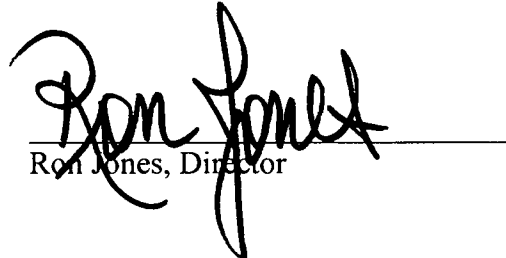
6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104 (2004).

**IT IS THEREFORE ORDERED THAT:**

The Petition is granted, and the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Lightyear Communications, Inc. is approved and is subject to the review of the Authority as provided herein.

  
Deborah Taylor Tate, Director

  
Sara Kyle, Director

  
Ron Jones, Director